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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,190	05/11/2001	Tomoo Fujioka	Y-183	7211

802 7590 08/26/2003  
DELLETT AND WALTERS  
310 S.W. FOURTH AVENUE  
SUITE 1101  
PORTLAND, OR 97204

EXAMINER
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NGUYEN, TUAN M

ART UNIT	PAPER NUMBER
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2828

DATE MAILED: 08/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/854,190	FUJIOKA ET AL.
	Examiner Tuan M Nguyen	Art Unit 2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 28 May 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1 and 2 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1 and 2 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4)  Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over prior art figure 1(a).

With respect to claims 1-2, prior art in figure 1(a) shows cylindrical straight slab type gas laser comprising a pair of electrodes (11, 12) of different diameter disposed concentrically by way of spacers (13) to fill the gap between the cylindrical electrodes with laser medium to define a straight slab, a ring shaped trick mirror (M1) disposed at one end of the straight slab, an output mirror (M2) disposed at the center of the one end of the straight slab to pass part of the light and to reflect a part of the remaining light and a W-axicon mirror (M3) disposed at the other end of the straight slab. However figure 1 does not shows the relationship between the center offset Xm

and the center position  $X_o$  of the trick mirror is set to  $X_o < X_m < \text{or } = 1.1X_o$ , the difference between the  $X_m$  value and  $X_o$  value is very small. Since it has been held that discovering an optimum value of a result effect variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Furthermore, since figure 1 shows a cylindrical straight slab comprising the spacers (13), a pair of electrodes (11, 12), a ring shaped trick mirror (M1), an output mirror (M2) and a W-axicon mirror (M3), are characterized in that the relationship between the center offset  $X_m$  and the center position  $X_o$  of the trick mirror, it is inherent to have the result within the range of the claims.

#### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-2 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Communication Information***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan M Nguyen whose telephone number is (703) 306-0247. The examiner can normally be reached on 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on (703) 308-3098. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3329.



Paul Ip  
SPE  
Art unit 2828

TMN  
August 19, 2003